IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CONTEMPT PETITION NO.390 OF 2007

IN

WRIT PETITION NO.7640 OF 2007

M/s.Vie Lounge and Deck through
Shri.Basab Paul, Director of
Savannah Hospitality Pvt.Ltd. ...Petitioner.

vs.

1.The State of Maharashtra & ors. ...Respondents.

Mrs.Bobby Malhotra Paul, for Petitioner.

CORAM: D.K.DESHMUKH J.

DATED: 29th October,2007.

P.C.:-

1. This is a contempt petition filed by the original petitioner in writ petition no.7640 of 2007. By order dated 12.1.2007 passed in the writ petition, the learned Single Judge of this Court has granted

ad-interim order in terms of prayer clause (b). Prayer clause (b) in terms of which interim relief has been granted, reads as under:-

> “(b) pending the hearing and final disposal of this Petition, the impugned order dated 05/10/2007 be stayed and the Petitioner be permitted to run his business under the Eating House Registration Certificate granted to him by the Police Authority.”

In paragraph (8) of the petition, the petitioner states that this order was granted in the presence of the Assistant Government Pleader and the order was communicated to the respondent nos. 2 and 3. The allegations of contempt are contained in paragraph (9) of the petition, that reads as under:-

> “9. But despite the said order having been communicated to the Respondent no.2 and 3 they still did not let the Petitioner run his business, and did not open the lock put by their officers on the main entrance gate to the Petitioner's said business premises. The Petitioner and his advocate therefore addressed further letters to the Respondent No.3 on 15/10/07,

> 16/10/07 and 18/10/07. But still date the Respondent no.2 and 3 have deliberately and willfully disobeyed the order of this Hon'ble Court. Hence, the present Contempt Petition. Annexed hereto and marked Exhibit E colly. is the correspondence between the parties."

Perusal of the above paragraph 9 shows that according to the petitioner, the respondents have willfully disobeyed the order dated 12.10.2007 passed by this Court by not opening the lock and not permitting the petitioner to carry on the business. Perusal of the correspondence that is annexed to the petition shows that in none of the letter the respondent nos. 2 and 3 have been asked to open the lock. In the petition one does not find any averments made as to apart from opening the lock what the respondent nos. 2 and 3 were supposed to do for permitting the petitioner to run eating house. The action in contempt jurisdiction is a quasi criminal action and therefore, unless willful and deliberate disobedience of the order made by this Court is clearly made out beyond any pale of doubt, an action under contempt cannot be initiated. In the present case, the order of which disobedience is alleged is an ad-interim order. There are

allegations made that the respondents did not open the lock which was put by their officers on the main entrance gate to the petitioner's said business premises. There is no letter written to the authority to open the lock. As observed above, there are also no averments made as to what steps the respondent nos. 2 and 3 had to take apart from opening the lock, to permit the petitioner to run the business. I find that from the material available on record it cannot be said that ad-interim order made by this Court has been willfully and deliberately violated by the respondent nos. 2 and 3 as alleged by the petitioner. The petition is therefore, dismissed.

(D.K.DESHMUKH, J.)